

Notice of Allowability	Application No.	Applicant(s)	
	09/642,078	LA MURA ET AL.	
	Examiner	Art Unit	
	Nicholas D. Rosen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communication of 11/18/05 - 8/10/04. *nd*
2. ☒ The allowed claim(s) is/are 4, 8 and 9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 8/27/03. *Replacement Fig. 2 of 8/10/04 approved by drafts person.*
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>8/10/04</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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Claims 4, 8, 9, 11, 12, 14, 18, and 19 have been examined.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Laura Majerus on December 15, 2005.

The application has been amended as follows:

The first three lines of claim 4 are hereby amended to read as follows:

**"An online auction system having at least one seller member (seller) and at least one buyer member (bidder), said auction system comprising:
a computer device configured to communicate with said at least one seller member and said at least one buyer member, the computer device comprising:"**

The twentieth and twenty-first lines of claim 4 are hereby amended to replace "reveal only the second-highest standing bid for an item for sale;" by **"during the course of the auction, reveal to all bidders only the second-highest standing bid for an item for sale;"**.

The first three lines of claim 8 are hereby amended to read as follows:

“An online auction system having at least one seller member (seller) and at least one buyer member (bidder), said auction system comprising:

a computer device configured to communicate with said at least one seller member and said at least one buyer member, the computer device comprising:”

The twenty-third and twenty-fourth lines of claim 8 are hereby amended to replace “reveal only the second-highest standing bid for an item for sale;” by **“during the course of the auction, reveal to all bidders only the second-highest standing bid for an item for sale;”**.

The first three lines of claim 9 are hereby amended to read as follows:

“An online auction system having at least one seller member (seller) and at least one buyer member (bidder), said auction system comprising:

a computer device configured to communicate with said at least one seller member and said at least one buyer member, the computer device comprising:”

The nineteenth and twentieth lines of claim 9 are hereby amended to replace “reveal only the second-highest standing bid for an item for sale;” to **“during the course of the auction, reveal to all bidders only the second-highest standing bid for an item for sale;”**.

Election/Restriction

This application contains claims directed to the following patentably distinct species of the claimed invention: Claims 4, 8, and 9 are a first species, Group I, distinguished from generic use of computerized auctions by revealing only the second highest standing bid for an item for sale.

Claim 11 is a second species, Group II, distinguished from generic use of computerized auctions by receiving in conjunction with each bid a priority ranking value for the item, and allocating a plurality of items for sale to a plurality of bidders according to the highest bids for the items, and according to bidders' highest priority ranking values placed on the items.

Claim 12 is a third species, Group III, distinguished from generic use of computerized auctions by decreasing the sale price for goods such that the sale price is inversely proportional to the number of bids received for said goods

Claim 14 is a fourth species, Group IV, distinguished from generic use of computerized auctions by listing at least one of the goods for sale in a "featured" mode, and attaching a rebate to a bid, if the bid is placed for a good during the "featured" mode, and allocating a rebate to the highest winning bid if a rebate is attached to said bid at the close of sale for the item.

Claim 18 is a fifth species, Group V, distinguished from generic use of computerized auctions by receiving rebate amount requests from bidders, and receiving bids from a plurality of bidders in order from the highest rebate amount to the lowest rebate amount.

Claim 19 is a sixth species, Group VI, distinguished from generic use of computerized auctions by being tournament auction where one item is auctioned in each round of bidding, and where a subset of the bidders from previous rounds are admitted to each subsequent round, the subset selected according to the bid amount placed by each buyer such that buyers with higher bids are prioritized over bidders with lower bids.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with attorney Laura Majerus on December 1, 2005, a provisional election was made without traverse to prosecute the invention of Group I, claims 4, 8, and 9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11, 12, 14, 18, and 19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to non-elected inventions.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Allowable Subject Matter

Claims 4, 8, and 9 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art for general auction systems, Pallakoff (U.S. Patent 6,269,343), discloses, in a computer device, an online auction system having at least one seller member (seller) and at least one buyer member (buyer) (Figure 1; column 2, line 52, through column 3, line 27), said auction system comprising: (a) an interface module configured to provide

a user interface between the seller and the buyer (Figures 1 and 2; column 2, line 52, through column 3, line 36); (b) a transaction module operatively coupled for communication to said interface module configured to manage transactions associated with moves made by the seller and the bidder in conjunction with a sale of an item by the seller (Figures 1, 2, and 3; column 2, line 52, through column 5, line 45); and (c) a mechanism module operatively connected for communication to said transaction module, said mechanism module defining at least one auction rule, said transaction module further configured to carry out transactions according to said auction rule defined by said mechanism module (Figures 1, 2, and 3; column 2, line 52, through column 5, line 45). Pallakoff does not disclose receiving in conjunction with a bid an expiration condition, but Aggarwal (U.S. Patent 6,151,589) teaches receiving a bid from a bidder for an item for sale, receiving in conjunction with said bid an expiration condition for said bid, and canceling said bid when said expiration condition is met (Abstract; column 3, lines 8-19; Figure 3). Vickrey auctions, in which the first-highest standing bid and all other bids are maintained in confidence until the close, when the highest bidder acquires the item at the price bid by the second highest bidder, are well known (and described, for example, in Holcombe, U.S. Patent Application Publication 2004/0024483, paragraphs 412 and 413, where there is mention of revealing the second highest bid *at the end of the auction*, and of revealing bids, including the second highest bid, *to the seller*). However, no prior art of record teaches a quasi-Vickrey auction where only the second-highest standing bid is revealed *to all bidders* during the course of the auction.

The above pertains in particular to claim 4; claims 8 and 9 recite additional elements, but include at least the key limitation of claim 4, and are therefore allowable on at least the same grounds.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fisher et al. (U.S. Patent 6,243,691) disclose a method and system for processing and transmitting electronic auction information. Holcombe (U.S. Patent Application Publication 2004/0024483) discloses controlling utility consumption. Fraser et al. (U.S. Patent Application Publication 2004/0210512) disclose systems and methods for trading. Herman et al. (U.S. Patent Application Publication 2005/0234811) disclose a method and system for virtual sealed-bid communications held over a communications network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

December 17, 2005